



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 31, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 29, 2015, at Portage, Wisconsin.

The issue for determination is whether the agency erred in closing petitioner's FS effective June 30, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.
2. Petitioner was an ongoing FS recipient.
3. The agency requested a six month report form be submitted by petitioner to the agency by May 2015.

4. Petitioner sent the form by first class mail to the central document processing unit in Janesville, WI. This was the correct place for her to send the SMRF.
5. The agency did not receive the form or a link to the scanned form in the case file and closed the FS case effective 6/30/15.
6. Petitioner subsequently re-applied and was enrolled in FS.

DISCUSSION

The agency does not dispute that petitioner was eligible for FS at all time pertinent to this case. The dispute revolves around the agency's assertion that it did not receive the SMRF after it was requested. Such forms are required to be sent to the central document processing unit (CDPU) in Janesville. The CDPU processes forms for most or all state public benefit programs in most or all counties. The CDPU is responsible for opening envelopes, scanning submissions, and ensuring the scan is properly linked to the case file electronically.

Petitioner claims she sent in the SMRF and provided a copy of a form purporting to be a copy of the SMRF she sent in. It is dated 4/28/15 which would have been a timely submission. Petitioner was credible in her testimony.

The most likely scenario here is that the document was not processed correctly by the CDPU. The copy submitted by petitioner and her credible testimony are critical to this determination. The agency representative admitted that she has no personal knowledge as to the manner in which the CDPU performs its operation and whether errors are possible or common. Given the lack of any material evidence suggesting that petitioner is untruthful and that the CDPU could not have erred, I will find in favor of petitioner. This is also in light of the agency's concession that petitioner was otherwise eligible for FS during any lapse period.

CONCLUSIONS OF LAW

The petitioner must be determined eligible for FS retroactive to 6/30/15.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instruction to reinstate FS retroactive to 6/30/15 and to issue any necessary FS supplements during any months not issued retroactive to 6/30/15. These actions must be completed within 10 days of this Decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.



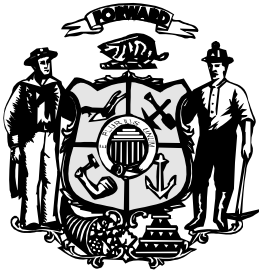
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of October, 2015

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 26, 2015.

Dane County Department of Human Services
Division of Health Care Access and Accountability